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Paper No. 29

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OFFICE OF PETITIONS

In re Application of :  
Eugene A. Cefali :  
Application No. 08/962,421 : ON PETITION  
Filed: October 31, 1997 :  
Attorney Docket No. 20720-95585 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 2003 to revive the above-identified application, and on the concurrently filed petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after the application has been revived.<sup>1</sup>

The petitions are **GRANTED**.

This application became abandoned for failure to timely submit formal drawings on or before December 26, 2000 as required by the Notice of Allowability mailed September 25, 2000. The date of abandonment of this application is December 27, 2000.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit formal drawings is accepted as having been unintentionally delayed.

Turning next to the petition under 37 CFR 1.313(c)(2) to withdraw the application from issue after payment of the issue fee, as requested, the above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

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<sup>1</sup> The issue fee in this case was timely paid on January 2, 2001. Accordingly, a petition to withdraw from issue under 37 CFR 1.313(c)(2) to consider an amendment and petition to correct inventorship is appropriate.

Petitioner is advised that the issue fee paid on January 2, 2001 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.<sup>2</sup>

The loss of entitlement to small entity status filed on January 16, 2003 has been noted and made of record. In view thereof, any future fees paid in this application must be paid at the large entity rate.

It is noted that the Issue Fee Transmittal Form PTOL-85(b) submitted on January 2, 2001 indicated that this application was no longer entitled to small entity status and authorized the charging of the issue fee at the large entity rate. However, the Office assessed the small entity rate for the issue fee payment rather than the large entity rate. Accordingly, as authorized, the balance due of \$620 will be charged to Deposit Account No. 50-2543.

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The application file will be forwarded to Technology Center AU 1615 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Request to Correct Inventorship under 37 CFR 1.48(a); Request to Perfect Claim to Priority Pursuant to 35 U.S.C. § 120; and Preliminary Amendment.



Frances Hicks  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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<sup>2</sup> The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. Failure to timely request in writing that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.